

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHEL TOLIVER,

Plaintiff,

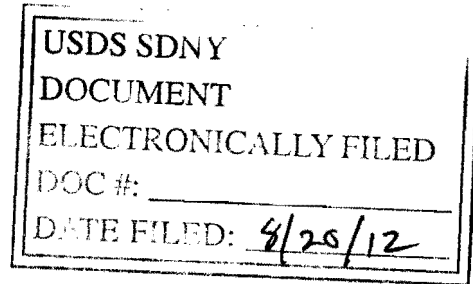
- against -

THE CITY OF NEW YORK, DEPARTMENT
OF CORRECTIONS, COMMISSIONER OF THE
DEPARTMENT, CHIEF OF THE
DEPARTMENT, WARDEN OF G.R.V.C.,
CAPTAIN MERCED #211, CAPTAIN MAKAS,
CORRECTIONS OFFICER ALMANZAR,
CORRECTIONS OFFICER JOHN DOE,
CORRECTIONS OFFICER TAPIA #12362,
OFFICER MACADLE #17893,

Defendants.

10 Civ. 7798 (RJS) (JCF)

REPORT AND
RECOMMENDATION

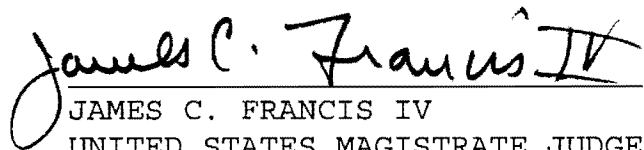


TO THE HONORABLE RICHARD S. SULLIVAN, U.S.D.J.:

On March 19, 2012, the Honorable Richard S. Sullivan, U.S.D.J., dismissed the plaintiff's complaint without prejudice to his submitting an amended pleading. By order dated June 29, 2012, Judge Sullivan directed the plaintiff to submit any amended complaint no later than July 16, 2012. Although the plaintiff sent a letter prior to that deadline, it was not responsive to Judge Sullivan's order. Rather, it referred to a document that the plaintiff had submitted two years earlier which, of course, could not have been an amendment conforming to Judge Sullivan's March 19, 2012 order. Accordingly, I respectfully recommend that this action be dismissed.

Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of Court, with extra copies delivered to the chambers of the Honorable Richard S. Sullivan, Room 640, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

RESPECTFULLY SUBMITTED,


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
August 20, 2012

Copies mailed this date:

Michel Toliver
10-A-4565
Shawangunk Correctional Facility
P.O. Box 700
Wallkill, New York 12589

Joseph A. Marutollo, Esq.
Assistant Corporation Counsel
100 Church Street
New York, New York 10007

Ronald Zapata, Pro Se Office